



Department of Planning, Housing, & Community Development

Mayor, Matthew T. Ryan
Director, Tarik Abdelazim

STAFF REPORT

TO: Zoning Board of Appeals Members
DATE: 14 February 2013
SUBJECT: 37 Court Street; Area Variance for Awning Sign
TAX ID #: 160.40-2-16
CASE: 2013-02
COPIES: B. Seachrist, T. Costello, L. Webb (District 4), Z. Chastain, File

A. REVIEW REQUESTED

Zac Chastain, the property tenant, has submitted an application for an area variance related to signage for a new Office, Business, at the property known as 37 Court Street; the property is located in the C-2, Downtown Business District. The property is owned by Schleider Properties LLC. As part of the new business, the Applicant has proposed new signage

The Applicant has proposed the following signs for the project:

- One (1) window sign, "Freshy Sites" w/logo
- One (1) awning sign, 3' high x 10' long, "Freshy Sites" w/logo and tag line, non-illuminated

Both of the signs would face onto Court Street.

Article XI, Sign Regulations, of the City of Binghamton Zoning Code establishes the standards for signage in the City of Binghamton. §410-65 of the Zoning Code establishes the specific signage standards for the C-2 District. The window sign complies with the standards; the proposed awning sign does not comply with a number of these standards, and therefore, the proposal would require the area variances listed below:

	Permitted by Zoning Code	Proposed
Maximum Size of an Awning Sign	16" high by 6' long	3' high by 10' long

In granting an area variance, the Zoning Board of Appeals must weigh the benefit to the Applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- Undesirable change**: Whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created;
- Reasonable alternative**: Whether the Applicant can achieve his goals via a reasonable alternative that does not involve the necessity of an area variance;

- (c). **Substantial request:** Whether the variance requested is substantial;
- (d). **Physical and Environmental Conditions:** Whether the requested variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district;
- (e). **Self-created hardship:** Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

B. ADDITIONAL REVIEWS

The sign proposal does not require approval from the Planning Commission.

The project is located within the Court Street Local and National Register Historic District; all exterior modifications, including signage, must be reviewed and approved by the Commission on Architecture and Urban Design (CAUD). The window sign was reviewed and approved by CAUD at the 29 January 2013 meeting; the proposed awning sign will be reviewed at the 26 February 2013 CAUD meeting.

The project is located within the Local Waterfront Revitalization Program (LWRP) area; however, signage modifications do not require consistency review by the Waterfront Advisory Committee.

The proposed project does not include any modifications to the surface lot and does not require a Stormwater Pollution Prevention Plan (SWPPP).

The project is located within 500 feet of a State route (Court Street) and requires 239 L&M review from the Broome County Planning Department; it is currently under review.

C. SITE REVIEW

37 Court Street, is a 3,600 square foot parcel facing onto Court Street. The building is part of a row of commercial buildings.

Land use in the vicinity of 37 Court Street is a mix of commercial and residential, with commercial being located on the ground floors, and residential located on upper floors. Commercial uses in the vicinity include: restaurants, general and specialized retail, a gym/fitness center, and business offices.

D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

2 Court Street: PHCD & Building Department Staff, on June 5, 2012, denied an application by Mark Huebner/ReRent Properties for Series A Site Plan / SUP Review Exception for a proposed Business Office.

2 Court Street: The Zoning Board of Appeals, on 3/6/12, granted approval to Matzo Sign Company for two Area Variances for Maximum Sign Area in the C-2 District for two signs ('Merrill Lynch').

7 Court Street: Planning Commission, on 3/18/09, granted Series A Site Plan / SUP approval to Chianis Anderson Architects for a use of Multi-Unit Dwelling in the C-2 District to convert the 3rd floor of an existing structure to 4 four-bedroom units (16 total bedrooms), with a condition:

1. That the applicant shall comply with all conditions of the January 27, 2009 CAUD decision on this case, which include:
 - a.) That the arches on the middle and left hand windows on the second story of the South-most section of the building be restored to match the rest of the windows in that section.
 - b.) The Commission (CAUD) reserves the right to make a determination on color of the window frames once samples are obtained.

7 Court Street: In September of 2012, Planning Commission granted a Series A Site Plan / Special Use Permit for a Mixed-Used development, Multi-Unit Dwellings (More than 4 Bedrooms) and Commercial uses (TBD).

7 Court Street: In October of 2012, the Zoning Board of Appeals granted a variance for Minimum Off-Street Parking, required for new construction in the C-2 District.

31 Court Street: In June of 2012, Planning Staff granted a Series A Site Plan / Special Use Permit Exception for a Nail Salon in the C-2 District.

37 Court Street: Starr Child Day Care was given permission to operate a day care center in 1995 through a Series B Site Plan review.

40 Court Street: In January of 2012, the Planning Commission approved a Series A Site Plan / Special Use Permit for a Multi-Unit Dwelling (More than 4 Bedrooms).

41-43 Court Street and 153-157 Washington Street: In September of 2011, the Planning Commission granted a Series A Site Plan / Special Use Permit for a Brewpub in the C-2 District.

49 Court Street:

- In August of 2000, the Planning Commission granted a Special Use Permit and Series A Site Plan Review to Metrocenter Associates LLC to construct a 25,180 square foot, third floor addition to the Metrocenter.
- The Zoning Board of Appeals granted an area variance of off-street parking to Metrocenter Associates LLC to construct a 25,180 square foot, third floor addition to the Metrocenter.

56-58 Court Street: An area variance of off-street parking requirements was granted to Hirsh and Mowry Realty in 1979.

60-68 Court Street: Adam Weitsman was given a Special Use Permit by the Planning Commission in March of 2000 to operate a billiard/pool hall.

60-68 Court Street: In June of 2011, the Planning Commission approved a series A Site Plan / Special Use Permit for a Cultural Facility and a Multi-Unit Dwelling (More than 4 Bedrooms) in the C-2 District.

73 Court Street: In April of 2011, the Planning Commission approved a Series A Site Plan / Special Use Permit for the conversion of upper-floor space to a Dormitory, Off-Campus.

73 Court Street: In June of 2012, Planning Staff granted a Series A Site Plan / Special Use Permit Exception for a Tavern in a former Tavern space.

80 Court Street: In March of 2010, the Planning Commission approved a Series A Site Plan / Special Use Permit for the conversion of a commercial space to two dwelling units.

83 Court Street: In October of 2008, the Planning Commission approved a Series A Site Plan / Special Use Permit for a multi-unit residential and retail development in the C-2 District for Stellar 6001, LLC.

128 Washington Street: The Planning Commission, on December 21, 2005, granted Series A Site Plan / SUP approval to Maggie Martin of the Art Mission Theatre for a indoor theatre in the C-2 District.

128 Washington Street: Richard David was granted a Series A Site Plan / SUP Review Exception on June 22, 2010 to operate a Restaurant, Sit Down in the C-2 District.

128 Washington Street: Binghamton Hots, Inc., was granted an area variance for maximum number of signs in the C-2 District by the Zoning Board of Appeals in July, 2011.

134 Washington Street: In April of 2008, the Zoning Board of Appeals granted variances for maximum number of signs and maximum size of an awning.

135 Washington Street: In March of 2011, the Planning Commission approved a Series A Site Plan / Special Use Permit for the expansion of a Mixed-use property in the C-2 District.

E. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **Unlisted** Action. The Zoning Board of Appeals may be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
 - a. Type I
 - b. Type II
 - c. **Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C1-C5?	Other impacts (including changes in use of either quantity or type of energy)?
X	X	X	X	X	X	X

F. STAFF FINDINGS

Planning Staff has no major concerns related to this proposal.

G. ENCLOSURES

Enclosed is a copy of the application, site photographs and sign mock-up.

Sincerely,

H. Peter L'Orange
Historic Preservation and Neighborhood Planner

Enclosures